A

# REDACTED DOCUMENT

B

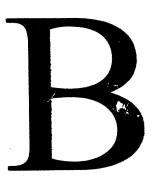*Power Integrations, Inc.   v.*
*Fairchild Semiconductor International, Inc.*

*Trial Volume 2*
*October 3, 2006*

*Hawkins Reporting Service*
*715 N King Street*
*Suite 3*
*Wilmington, DE  19801*
*(302) 658-6697*

*Original File 100306~1.TXT, 327 Pages*
*Min-U-Script® File ID: 0556485286*

**Word Index included with this Min-U-Script®**

Page 489

[1] a laptop.
[2]     SoftStart is a feature that is added
[3] to minimize those problems.
[4]   Q: Do you have an understanding as to what
[5] the specific SoftStart circuit that is recited in
[6] Claim 4, what that means in the context of this
[7] patent?
[8]     A: Yes. The Court construed that or
[9] determined the meaning of SoftStart as being a
[10] means-plus-function element.
[11]   Q: What is your understanding of that?
[12]   A: Means-plus-function element is first you
[13] have to look at the function that the claim is
[14] performing and then find the corresponding
[15] structures. In this case, in the patent, and for
[16] doing that function and compare them to the
[17] structures for doing that function in the
[18] accused's products.
[19]   Q: Let's begin with the discussion of how the
[20] SoftStart circuit of the '851 Patent is described
[21] in the example of Fig. 3.
[22]     Can you briefly explain what Fig. 3
[23] shows with regard to that?
[24]     A: Sure. Fig. 3 shows the SoftStart circuit

Page 490

[1] in a dashed line. There are three elements here:
[2] 450 is what we call a latch. 460 is a device
[3] called a comparator. And 45 is an AND gate.
[4] Initial powerup, you turn on a switch, you get a
[5] signal that resets — or sets the latch. What
[6] that means is a latch is a digital circuit that
[7] has two output states, high and low, for example,
[8] you can control one — if you send the signal to
[9] one input, it forces the output high. If you
[10] send it to the other it forces the output low and
[11] stays there in the state until you trigger the
[12] other input, that's what a latch is. So the
[13] power input signals it to start the SoftStart
[14] circuitry working. And this embodiment in Fig. 3
[15] we have triangle wav, frequency variation signal
[16] coming into one input of the comparator. The
[17] comparator is going to compare two ramps. Ramp
[18] by ramp engineering means a signal that increases
[19] in value. Here we are going to compare the ramp
[20] from the oscillator, which is going fast. This
[21] might be a hundred thousand or million times a
[22] second. That ramp is going to be compared with
[23] another ramp, which is a frequency variation
[24] signal which is a slower moving ramp.

Page 491

[1]     Whenever the oscillator or fast ramp
[2] signal goes above a magnitude of the frequency
[3] variation signal the SoftStart circuit sends a
[4] signal to shut down the switch.
[5]   Q: I would like to refer you to Fig. 4 of the
[6] patent; does that describe that process?
[7]     A: Yes, it is. Here are the two different
[8] ramps. The fast one may be a hundred thousand
[9] times or million times a second. And the slow
[10] ramp, which comes from the frequeucy variation
[11] signal in the Fig. 3 circuit. But for the
[12] SoftStart circuit the switch would stay on for
[13] its maximum time on startup because there is a
[14] big error on startup that stresses things and
[15] could cause overshoot. So what this does is
[16] compares the two ramps. And whenever the fast
[17] ramp goes above the frequency variation signal
[18] you shut down the switch. So the switch is going
[19] to turn on at this bottom each time and it is
[20] going to be shut down whenever the fast ramp goes
[21] above the slow ramp. The result of that is they
[22] intersect at a higher and higher place over time
[23] and you are going to gradually increase the pulse
[24] width. Instead of having the switch on for the

Page 492

[1] maximum time it gradually increases on the time
[2] that it is on and it gradually builds up and not
[3] give us the overshoot of stress.
[4]   Q: Did you reach any conclusions with Claim
[5] 4?
[6]     A: Yes. Claim 4 meets all requirements.
[7]   Q: Is there any dispute that the SoftStart
[8] circuit in FSD210 operates to gradually increase
[9] the current to solve the inrush and overshoot
[10] problems?
[11]     A: No. Mentions in the data sheet is an
[12] internal SoftStart circuit that gradually
[13] increases the current through the SensFET that's
[14] the switching transistor.
[15]   Q: Does the FSD210 provide a signal
[16] instructing the drive circuit to discontinue the
[17] drive signal when the magnitude of the
[18] oscillation signal is greater than the magnitude
[19] of the frequency variation signal?
[20]     A: It does.
[21]   Q: Can you explain where that is in the
[22] schematic?
[23]     A: Sure. The oscillation signal is coming
[24] out of the oscillator, it's that saw waveform.

*Power Integrations, Inc.  v.*
*Fairchild Semiconductor International, Inc.*

---

*Trial Volume 4*
*October 5, 2006*

---

*Hawkins Reporting Service*
*715 N King Street*
*Suite 3*
*Wilmington, DE  19801*
*(302) 658-6697*

**Word Index included with this Min-U-Script®**

Power Integrations, Inc.   v.
Fairchild Semiconductor International, Inc.

Trial Volume 4
October 5, 2006

Page 1083

[1]     So, in fact, our book which is a
[2] decade before the patent or more, a decade or
[3] more includes a SoftStart circuit.
[4]     Q: So then what is this patent really
[5] about?
[6]     A: It's about a particular way that
[7] — in which SoftStart is accomplished, and which
[8] was the purpose of this patent or the claim of
[9] this patent.
[10]    Q: So you've heard Mr. Blauschild
[11] describe how SoftStart is means-plus-function,
[12] and you just mentioned that. Could you please
[13] remind the jury what it means for something to
[14] be a means-plus-function claim?
[15]    A: Again, my disclaimer, I'm not a
[16] lawyer. My understanding is that, first of all,
[17] it has to be a finding of the Court that it is a
[18] means-plus-function claim, and that has been
[19] found here. And a means plus — and a
[20] means-plus-function applies to an element of a
[21] claim. In this case, we're talking about the
[22] thing officially called SoftStart circuit.
[23]    And when a claim element or a term
[24] in a claim is ruled to be a SoftStart, a

Page 1084

[1] means-plus-function, it covers or is limited to
[2] the structure shown in the patent and describing
[3] — described in the specification, or the
[4] equivalents that perform or correspond to the
[5] claimed function.
[6]    That is, if someone were to do
[7] that function, but in a completely different way
[8] with a completely different structure, it would
[9] not be covered by the patent if it's a
[10] means-plus-function claim.
[11]    Q: Now, how do you know what portions
[12] of the specification you need to look at?
[13]    A: Well, that, too, has been the
[14] subject of an order by the Court who heard
[15] competing arguments and issued the order, and it
[16] spelled out in three figures and a set — set of
[17] lines within the specification that are ruled to
[18] be — to describe that structure that must be
[19] used.
[20]    Q: And so when you have something
[21] like that, that is, those columns and those line
[22] numbers, how do you use that, then, to determine
[23] what is actually referred to as the structure?
[24]    A: Well, in this case, luckily we —

Page 1085

[1] in fact, we have a figure — we have three
[2] figures and the figure is the text of the
[3] patent, the specification, so-called, it talks
[4] about the figures.
[5]    It says, Here's a figure and
[6] here's this thing, and it does this. So here we
[7] go.
[8]    The easiest way here is simply to
[9] walk through the text that has been ordered to
[10] describe the SoftStart circuit and see how it's
[11] read onto the figure.
[12]    So here, first, I think two of
[13] three of these slides just show some of the
[14] portion of the specification that was ruled. So
[15] Column 6, Lines 50 through 54 talk about a thing
[16] called SoftStart circuit, at block 410, it's
[17] green here.
[18]    Also, pulse width modulation
[19] signal, power up signal, 420, SoftStart enable
[20] signal, 421, and oscillator signal, 400. And
[21] these are all within the lines, rows and columns
[22] that were ordered by the Court.
[23]    The next one just adds some more
[24] — this is Lines 35 through 40, talks about the

Page 1086

[1] signal 400, and again within the SoftStart
[2] circuit ruled section includes frequency
[3] variation circuit, 405, preferably has an
[4] oscillator oscillating at a low frequency.
[5] Again, as Mr. Blauschild explained, that 400
[6] wiggly thing up there looks like it's going a
[7] lot faster than this guy, 415.
[8]    But the real numbers here, this is
[9] about a hundred or a few hundreds times a
[10] second. This is probably a thousand or a few
[11] hundred thousands times a second. This is the
[12] fast one this is the slow one, low frequency
[13] oscillator.
[14]    Q: So I see here that you've included
[15] the frequency variation circuit, but aren't we
[16] talking about the SoftStart circuit? Why did
[17] you include that?
[18]    A: Well, I include it, because this
[19] is within the section of the specification that
[20] the Court said described the SoftStart circuit,
[21] and also, without a frequency variation circuit,
[22] the SoftStart doesn't work. It makes all the
[23] sense in the world.
[24]    And I think this is — this is, I

Page 1087

[1] think, maybe one more. Again, just reading
[2] along those lines, we've added now, I guess, the
[3] — this flip-flop, which they call a latch, 450,
[4] because there it is. That receives this signal.
[5]     You see this frequency, this
[6] oscillator circuit, 405, provides two things in
[7] here, provides this — where is this? This
[8] little signal here.
[9]     But it also provides a signal from
[10] here that is essential for the SoftStart
[11] operation as we'll see. I guess there's one
[12] more.
[13]     And here, an additional thing has
[14] been added, it's the 455, gate. Again, sorry
[15] for the confusion, but engineers use gate to
[16] mean two quite different things. And this is
[17] the kind of thing that you call a logic gate or
[18] an AND gate as opposed to the gates of a MOSFET.
[19]     Q: So all of the various parts that
[20] you've added, and you've colored up there, do
[21] all of these parts come from what the Court set
[22] forth as the structure?
[23]     A: Yes. They're all within the
[24] section that was described by the Court as or

Page 1088

[1] ordered by the Court to be the SoftStart circuit
[2] structure description.
[3]     Q: So could you explain quickly how
[4] the Power Integrations' SoftStart circuit works?
[5]     A: Yeah. I think this is perhaps
[6] helpful. There's — and I won't have much in
[7] the way in graphs here. This is the fast
[8] oscillator. And the fast oscillator is what
[9] says to the switch, turn on, and then when the
[10] voltage reaches the right amount, turn back off.
[11]     But the problem of SoftStart is
[12] when you first turn it on, the output voltage is
[13] zero. And the thing it says, help, I need lots
[14] of voltage. And this poor thing says, Give me
[15] more, give me more.
[16]     And it's trying to tell the switch
[17] to turn on continuously or maximum-duty cycle.
[18] And that's pretty rough on everything around it.
[19] It's a huge current impulse.
[20]     You can see the dim sometimes when
[21] you switch these things on. So what the
[22] SoftStart does is it basically says, Not so
[23] fast. We're going to use this comparity here
[24] and compare this fast switch signal against a

Page 1089

[1] very slowly rising SoftStart oscillator here
[2] move very slowly, only a few hundred times a
[3] second to go up and down.
[4]     And the very first portion of the
[5] first cycle, you've seen this before with
[6] graphs, tell this thing, no, stop, stop much
[7] sooner than you thought you should have stopped,
[8] because otherwise we're going to have a big
[9] inrush current and bad things are going to
[10] happen.
[11]     And so there's two oscillators,
[12] the one that says go slow, and the one that says
[13] I'm in the business of turning switches on and
[14] off. And there's an additional — so that's —
[15] I think we've seen that operation before in past
[16] slides.
[17]     What's new here?
[18]     Q: Oh, I'm sorry. Were you back on
[19] that?
[20]     A: No. This is fine.
[21] This is fine. There's an extra —
[22] there's this extra stuff here that I described
[23] as the flip-flop or the patent refers to it as a
[24] latch. Engineers are sometimes a bit loose with

Page 1090

[1] their language.
[2]     This thing here is important. In
[3] fact, it's required in this particular
[4] structural implementation of the SoftStart of
[5] this patent. Because as I said before, the
[6] analog triangle wave goes up and down forever.
[7] You see the meter just going nicely up and
[8] nicely down.
[9]     And what this thing does is says,
[10] I want to do a SoftStart for the first up from
[11] low up to maximum.
[12]     But I don't want to ride back down
[13] again. I'm started. I'm on the road.
[14]     And so what it does is this is the
[15] first rise here. Here's those pulses getting
[16] wider. We've seen these pictures before, and
[17] then this thing says — little traffic light
[18] says, okay, no more SoftStart. You've reached
[19] — you've made a soft landing on a higher plane.
[20] Just keep running now. There it is.
[21]     And that's what this latch does.
[22] It disables an undo of SoftStart. And if you
[23] didn't have it — we don't have it — here's
[24] what you would — what happens if you don't have

Power Integrations, Inc.   v.
Fairchild Semiconductor International, Inc.

Page 1163

[1] copying, and that they're two very different
[2] devices.
[3]    MS. FEEMAN: Okay. Thank you,
[4] Doctor Wei.
[5]          CROSS-EXAMINATION
[6]          BY MR. POLLACK:
[7]    Q: Good afternoon, Dr. Wei.
[8]    A: Good afternoon.
[9]    Q: First of all, you haven't offered
[10] any opinions at all related to the '075 patent;
[11] correct?
[12]    A: That's correct.
[13]    Q: Okay. Now, with regard to the
[14] circuit patent, you base your opinions on an
[15] analysis of the Fairchild circuit looking at the
[16] circuit diagrams versus the Power Integrations'
[17] circuit diagrams and patents; right?
[18]    A: The patents, the circuits, the
[19] data sheets.
[20]    Q: Now, you would agree with me,
[21] wouldn't you, that the devices themselves can't
[22] copy one another, it's only really the designer
[23] of the device that might or might not copy
[24] another's design; right?

Page 1164

[1]    A: I would agree that devices can be
[2] copies of one another, but it would have to be a
[3] hand that does any actions.
[4]    Q: Okay. And you'd also agree in
[5] order to copy something, you'd have to know what
[6] that thing is; right?
[7]    A: Well, to a certain extent, if I
[8] wanted to copy something, yes, I would have to
[9] know what it is. But actually, if I were to
[10] really — if I wanted to copy, the reason I
[11] would copy is because I didn't know how to do
[12] something.
[13]    So if I knew the answer to a
[14] question, I wouldn't need to copy the answer, I
[15] guess.
[16]    Q: Dr. We, during your — I took your
[17] deposition in this case; right?
[18]    A: Yes.
[19]    Q: And when I asked you the question,
[20] You'd agree with me in order to copy something,
[21] you have to know what that thing is, you said,
[22] yes; right?
[23]    A: Oh, yeah. Yeah.
[24] I'm agreeing with you there.

Page 1165

[1] Yeah. Yeah.
[2]    Q: Okay. Now, in forming your
[3] opinions on copying, you didn't discuss with
[4] Fairchild's engineers how they went about
[5] designing their circuits; right?
[6]    A: As you know, I was actually at the
[7] depositions for some of the devices, and so I
[8] spoke with Fairchild's engineers in terms of how
[9] the devices worked, and what different devices
[10] were there, and different various aspects of it.
[11]    But if you're asking me if I asked
[12] them, okay, how did you go about designing each
[13] of these different circuits with respect to the
[14] different functionalities; no, I did not.
[15]    Q: And in forming your opinions on
[16] copying, you didn't review any of the documents
[17] associated with Fairchild's reverse — research
[18] and development; right?
[19]    A: So I think you said —
[20]    Q: Research and development.
[21]    A: Okay. Research and development.
[22] The only extent to which I know of
[23] Fairchild's research and development comes from
[24] some of the conversations during the depositions

Page 1166

[1] that I sat in on.
[2]    Q: Okay. So you did attend those
[3] depositions in Korea; right?
[4]    A: I did.
[5]    Q: And you actually attended the
[6] deposition of Mr. Jeon and Mr. Jang; right?
[7]    A: Yeah. They were several days.
[8] Several days.
[9]    Q: But you didn't refer to anything
[10] you learned in those depositions in forming your
[11] opinions on copying; correct?
[12]    A: Correct, because I didn't feel
[13] that I needed to actually know what went through
[14] the minds necessarily.
[15]    I mean, it's really difficult to
[16] read someone else's mind. And I felt that if I
[17] looked at — because as a trained engineer who
[18] understands how circuits work by looking at two
[19] different circuits, I would be able to determine
[20] whether one is a copy of another.
[21]    Q: Well, now, you did learn during
[22] those depositions that Fairchild's designers
[23] knew about the Power Integrations' products
[24] while they were designing their own; right?

Page 1167

[1]   A: Oh, yes.
[2]   Q: And you also knew that the
[3] Fairchild engineers reverse engineered Power
[4] Integrations' products that had, for example,
[5] the digital frequency jitter in it; right?
[6]   A: Insofar as I believe in industry,
[7] reverse engineering is commonly done. And so,
[8] yes, I know that they had, or I had heard that
[9] or during the deposition that they have reverse
[10] engineered the device while they were designing
[11] their products, yes.
[12]   Q: Okay. And you also know that
[13] while they were designing their devices, the
[14] Fairchild engineers looked at Power
[15] Integrations' patent; correct?
[16]   A: Yes, I believe that's true. Yeah.
[17]   Q: But, you didn't discuss today in
[18] your testimony or in forming your opinions any
[19] of those facts; right?
[20]   A: That's true. I didn't feel that I
[21] had to.
[22]   MR. POLLACK: No further
[23] questions, Your Honor.
[24]   MS. FEEMAN: No further questions.

Page 1168

[1] This witness can leave.
[2]   MR. GUY: Your Honor, do you mind
[3] if I put the easel over here a little further?
[4]   THE COURT: Sure.
[5]   MR. GUY: There's a lot of fine
[6] print on that, and I want to make sure they can
[7] see the '075.
[8]   MR. SCHERKENBACH: I don't think
[9] that's going to work.
[10]   MR. GUY: All right. I'll move it
[11] right here.
[12]   MR. GUY: Ladies and gentlemen, on
[13] behalf of Fairchild, Dr. Peter Gwozdz.
[14]   Dr. Peter Gwozdz will be taking
[15] the stand. He is Fairchild's witness regarding
[16] the '075 patent. He'll be offering his
[17] opinions.
[18]   Swear the witness, please.
[19]   THE CLERK: State and spell your
[20] name for the record.
[21]   THE WITNESS: My name is Peter
[22] Gwozdz and I live —
[23]   THE CLERK: Just state and spell
[24] your name.

Page 1169

[1]   THE WITNESS: My last name is
[2] spelled G-W-O-Z-D-Z.
[3]   THE CLERK: Could you please place
[4] your left hand on the Bible and raise your right
[5] hand? Do you solemnly swear that the testimony
[6] you're about to give to the Court and the jury
[7] in the case now pending will be the truth, the
[8] whole truth and nothing but the truth so help
[9] you God?
[10]   THE WITNESS: I do.
[11]   PETER GWOZDZ,
[12] the deponent herein, having first
[13] been duly sworn on oath, was
[14] examined and testified as follows:
[15]
[16]   DIRECT EXAMINATION
[17]   BY MR. GUY:
[18]   Q: Now, perhaps we should do that on
[19] the record. How is your last name spelled?
[20]   A: Gwozdz, G-W-O-Z-D-Z.
[21]   Q: Okay. And where do you currently
[22] reside?
[23]   A: I live in Cupertino, California.
[24]   Q: Is that in Silicon Valley,

Page 1170

[1] California?
[2]   A: Yes, that's in Silicon Valley.
[3]   Q: And if you could briefly give us
[4] your educational background?
[5]   A: I have a bachelor's degree in 1966
[6] in physics, and a master's and Ph.D. in solid
[7] state physics in 1973 from University of
[8] Illinois.
[9]   Q: And can you give us briefly your
[10] background in semiconductors?
[11]   A: Well, I have over 40 years of
[12] experience in semiconductor technology,
[13] including work during graduate school.
[14]   Q: And if you could, just list, if
[15] you can — unfortunately because of our time,
[16] I'm going to be going through this a little bit
[17] quickly, I apologize.
[18]   But can you just give me a list of
[19] the companies you've worked with in Silicon
[20] Valley?
[21]   A: So let's see. After graduate
[22] school, I came right to Silicon Valley, in '73,
[23] and spent 15 years working in the industry. And
[24] I worked sequentially at National Semiconductor,

*Power Integrations, Inc.   v.*
*Fairchild Semiconductor International, Inc.*

*Trial Volume 5*
*October 6, 2006*

*Hawkins Reporting Service*
*715 N King Street*
*Suite 3*
*Wilmington, DE   19801*
*(302) 658-6697*

*Original File 100606~1.TXT, 307 Pages*
*Min-U-Script® File ID: 2853501902*

**Word Index included with this Min-U-Script®**

Page 1652

[1] independent claims are read by themselves in
[2] order to determine what each of the claims
[3] covers.
[4]     Claim 14 of the '366 patent, on
[5] the other hand, is a dependent claim. It refers
[6] to independent Claim 9. For a Fairchild product
[7] to infringe, then, Claim 14, which is, as I've
[8] said, is a dependent claim of the '366 patent,
[9] the Fairchild product must have all the elements
[10] of both Claim 1 and Claim 14. Therefore, if you
[11] find that an independent claim does not
[12] infringe, you must also find that all claims
[13] depending on that claim are not infringed.
[14]     I might have said Claim 1. In the
[15] example, I gave Claim 9. So it should be Claim
[16] 9, along with the dependent claim.
[17]     It's the Court's duty under the
[18] law to define what the patent claims mean. I've
[19] made constructions or interpretations, and I'm
[20] going to now instruct you on the meaning of
[21] certain terms in the patent claims at issue
[22] here.
[23]     You must apply the meaning that I
[24] give in each patent claim in deciding if the

Page 1653

[1] claim is infringed. You must ignore any
[2] different interpretation given to these terms by
[3] a witness or by an attorney.
[4]     You are advised that the following
[5] definitions for the following terms must be
[6] applied:
[7]     First, the term MOS transistor
[8] means a metal oxide transistor.
[9]     The term substrate means the
[10] physical material on which a transistor or micro
[11] circuit is fabricated.
[12]     The phrase a pair of laterally
[13] spaced pockets of semiconductor material of a
[14] second conductivity type within the substrate
[15] means two laterally spaced pockets of
[16] semiconductor material of the opposite
[17] conductivity type from the substrate.
[18]     The phrase a surface adjoining
[19] layer of material of the first conductivity type
[20] on top of an intermediate portion of the
[21] extended drain region between the drain contact
[22] pocket and the surface adjoining positions,
[23] means according to its plain — is construed
[24] according to its plain meaning, and therefore,

Page 1654

[1] no further construction was required by me.
[2]     The phrase said top layer of
[3] material is construed, again, according to its
[4] plain meaning when read in the context of the
[5] claim, and no further construction was required
[6] by me.
[7]     The term reverse bias voltage
[8] means a voltage applied across a rectifying
[9] junction with a plurality that provides a high
[10] resistance path.
[11]     The phrase substrate region there
[12] under which forms a channel is, again, construed
[13] according to its plain meaning when read in the
[14] context of the claim, and no further
[15] construction is required by me.
[16]     The term frequency jittering means
[17] varying the switching frequency of a switch mode
[18] power supply about a target frequency in order
[19] to reduce electromagnetic interference.
[20]     The term coupled means that two
[21] circuits are coupled when they are connected
[22] such that voltage, current or control signals
[23] pass from one to another.
[24]     The term primary voltage means a

Page 1655

[1] base or initial voltage, and the term is not
[2] defined by reference to the source from which it
[3] may be generated.
[4]     The term secondary voltage means a
[5] subsequent or additional voltage.
[6]     The term combining means adding
[7] together.
[8]     The term supplemental voltage
[9] means a voltage in addition to the primary
[10] voltage.
[11]     The term SoftStart circuit has
[12] been defined as a means-plus-function element.
[13] The functions of the various SoftStart circuits
[14] are construed in accordance with the plain
[15] meaning of the claim setting forth such
[16] SoftStart circuit functions.
[17]     The corresponding structures
[18] related to the SoftStart circuit are shown in
[19] Figures 3, 6 and 9 of the '366 patent and
[20] described in the specification of that patent at
[21] various columns. I'm not going to repeat them,
[22] but they're in the written instructions for you
[23] to look at.
[24]     The phrase frequency variation

C

*Power Intergrations, Inc.  v.*
*Fairchild Semiconductor International, Inc.*

---

*Hearing*
*March 2, 2007*

---

*Hawkins Reporting Service*
*715 N King Street*
*Suite 3*
*Wilmington, DE  19801*
*(302) 658-6697*

*Original File 030207~4.TXT, 20 Pages*
*Min-U-Script® File ID: 0310956563*

**Word Index included with this Min-U-Script®**

Power Intergrations, Inc.  v.
Fairchild Semiconductor International, Inc.

<div align="right">Hearing
March 2, 2007</div>

---

1

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

POWER INTEGRATIONS, INC., )

    Plaintiff,           )

                     ) C.A. No. 04-1371-JJF

v.                 )

FAIRCHILD SEMICONDUCTOR    )

INTERNATIONAL, INC., and     )

FAIRCHILD SEMICONDUCTOR    )

CORPORATION,           )

    Defendants.        )

        Friday, March 2, 2007

        11:20 a.m.

        Courtroom 4B

        844 King Street

        Wilmington, Delaware

BEFORE:  THE HONORABLE JOSEPH J. FARNAN, JR.

    United States District Court Judge

APPEARANCES:

    FISH & RICHARDSON

    BY:  WILLIAM J. MARSDEN, JR., ESQ.

    BY:  HOWARD G. POLLACK, ESQ.

    BY:  MICHAEL R. HEADLEY, ESQ.

        Counsel for the Plaintiff

Page 2

[1] APPEARANCES CONTINUED:

[2]

[3]

    ASHBY & GEDDES

[4]     BY:  LAUREN E. MAGUIRE, ESQ.

[5]        -and-

[6]     ORRICK, HERRINGTON & SUTCLIFFE, LLP

    BY:  BAS de BLANK, ESQ.

[7]

        Counsel for the Defendants

[8]

[9]

[10]

[11]

[12]

[13]

[14]

[15]

[16]

[17]

[18]

[19]

[20]

[21]

[22]

[23]

[24]

---

Page 3

[1]     THE COURT: Now, here's the two

[2] parties who can't get along. And I know you

[3] don't trust each other at all. So we start from

[4] those premises.

[5]     MR. MARSDEN: Good morning, Your

[6] Honor.

[7]     THE COURT: Good morning.

[8]     MR. MARSDEN: William Marsden from

[9] Fish & Richardson for Power Integrations. With

[10] me is Howard Pollack and Michael Headley.

[11]     Mr. Pollack will be handling the

[12] motions today.

[13]     THE COURT: All right. Good

[14] morning.

[15]     Welcome.

[16]     MS. MAGUIRE: Lauren Maguire from

[17] Ashby & Geddes, and Bas de Blank will be handling

[18] our motion.

[19]     THE COURT: Good morning.

[20] The two motions that we have this

[21] morning, let's take the motion to preclude use by

[22] Fairchild of additional invalidity materials

[23] first disclosed after discovery and the initial

[24] trial.

---

Page 4

[1]     MR. POLLACK: Your Honor, I think

[2] this should be a relatively straight forward

[3] discussion. There's no dispute that the

[4] materials we're complaining of were produced long

[5] after the close of discovery. In fact, after the

[6] jury verdict on the first trial.

[7]     There's no dispute that these

[8] materials would be squarely within a subpoena to

[9] the party Intersil that you quashed over Power

[10] Integrations' objections in August of last year.

[11]     And so the question is whether the

[12] ruling on the motion to quash that no further

[13] discovery from Intersil will be taken should have

[14] ended the story. What we see is a party who came

[15] to this Court and said Power Integrations has

[16] already got everything that they're entitled to.

[17] Anything else we have is redundant. There's

[18] nothing else there.

[19]     Nine months after the deposition of

[20] which we were a party asking questions about, as

[21] Your Honor understands, a pretty important issue

[22] in the case. Intersil voluntarily produced

[23] additional documents selectively. We don't know

[24] what else they have.

---

Power Intergrations, Inc.   v.                                                                    **Hearing**
Fairchild Semiconductor International, Inc.                                                  March 2, 2007

Page 9

[1] Certainly we're on notice, to some degree, about
[2] this evidence since our last discussion about it.
[3] So —
[4]    MR. POLLACK: And at that time, we
[5] were a week before trial or two weeks before
[6] trial. We didn't have the opportunity to do
[7] anything about it.
[8]    If Your Honor is inclined to say,
[9] Well, they get this stuff, but nothing more, the
[10] problem we have with that is we still can't be
[11] prepared to meet that evidence at trial, because
[12] we haven't had any discovery as to where it came
[13] from. And again, we would be objecting to its
[14] authenticity, its admissibility.
[15]    And I presume what they would
[16] suggest is, Well, they'll have a witness at trial
[17] who's going to authenticate it. We won't be able
[18] to cross-examine. We'll have no prior knowledge
[19] of any of that.
[20]    THE COURT: Maybe the better form or
[21] maybe the better context of this dispute is, I
[22] hate to go back to this, but a motion in limine,
[23] so that if there is that kind of a problem, I can
[24] provide a remedy to you, which would be a

Page 10

[1] deposition pretrial of the authenticating
[2] witness.
[3]    But what I'm going to do, I'm going
[4] to deny your motion today. They understand that
[5] this is the universe of evidence that they're
[6] limited to. And why don't you discuss, both of
[7] you, getting this before me in an early motion in
[8] limine in an evidentiary context, and because
[9] that's where it really belongs.
[10]    MR. POLLACK: Your Honor, maybe I'll
[11] just throw this out, because I anticipate the
[12] response being, Well, we can't do anything about
[13] it, because none of this stuff is in our control.
[14]    THE COURT: They wouldn't say that.
[15]    MR. POLLACK: Would the Court
[16] entertain —
[17]    THE COURT: You're not going to say
[18] that, are you?
[19]    MR. De BLANK: If I understand,
[20] Mr. Pollack's concern, I don't — we have it. We
[21] produced the documents, or the physical wafers we
[22] can make available for inspection. We've offered
[23] to do that.
[24]    MR. POLLACK: That's not the issue.

Page 11

[1] The issue is they've produced things that they
[2] think are helpful to them. We believe there's
[3] additional information that would either be
[4] contradictory to what they've chosen to produce
[5] or witnesses who will be able to testify that
[6] they really don't know what this stuff is.
[7]    And it isn't properly authenticated.
[8] And so the question I have for you is whether the
[9] Court would entertain either a motion to compel
[10] or a reconsideration of the motion — the order
[11] quashing the subpoena to Intersil to allow us to
[12] take additional discovery to explore prior to
[13] trial and motion in limine through a deposition?
[14]    THE COURT: Well, that's what I
[15] talked about in terms of a remedy. I don't know,
[16] but I think there's a threshold question.
[17]    There's a lot of presumption in our
[18] conversation now, mostly on your part, about all
[19] the problems you're going to face. Why don't you
[20] take what you know about the evidence now, the
[21] proffer, challenge it by a motion in limine. Let
[22] them respond.
[23]    And then when we have that before
[24] me, I'll make a decision. And if there's a need

Page 12

[1] for some remedies, then we can talk about those.
[2]    MR. POLLACK: Okay. Thank you, Your
[3] Honor.
[4]    THE COURT: Then we'll be more
[5] targeted towards the problem, rather than just
[6] allowing you to go over and, you know, broadly
[7] expose a third party, who I have already allowed
[8] to stay away.
[9]    MR. POLLACK: Fair enough, Your
[10] Honor.
[11]    THE COURT: All right. On the
[12] motion for leave — I'm sorry.
[13]    MR. De BLANK: I'm sorry, Your
[14] Honor. I just wanted to make sure I understand,
[15] when you're referring to this is it, this is the
[16] universe of documents, I assume you're referring
[17] to new materials from Intersil. There's a number
[18] of specific exhibits we've already referenced
[19] that they have no objection to.
[20]    THE COURT: This is only on the
[21] matters that were at issue in this motion.
[22]    MR. De BLANK: Thank you, Your
[23] Honor.
[24]    THE COURT: Yeah. Everything else